



## What do Title VII and Title IX Prohibit?

**Title VII** protects all employees and job applicants of any organization from employment discrimination on the basis of race, color, religion, sex, and national origin.<sup>1</sup>

**Title IX** protects people from sex-based discrimination in educational programs and activities at organizations that receive Federal financial assistance. Such organizations include approximately 16,500 local school districts, 7,000 postsecondary institutions, charter schools, for-profit schools, libraries, museums, and even hospitals.<sup>2</sup>

**Blurred Lines: How are individuals affected by the overlap?**<sup>3</sup>

- Title VII and Title IX both protect employees against workplace discrimination; however, Title VII applies to broader situations.
- Students and employees of *any organization that receives Federal financial assistance for educational programs and activities* have the right to file a lawsuit for retaliation and damages under Title IX.

This overlap can be confusing to navigate because the Supreme Court has not issued a decision on this overlap. It then falls on the states and Circuit Courts to make decisions and they have different preferences on which Civil Rights Act, they want people to file claims under.

### WHAT HAPPENS WHEN TITLE VII or TITLE IX ARE VIOLATED?

What is the solution for a Title VII discrimination claim?

- Typically, people who think they have a Title VII claim for discrimination on the basis of race, color, religion, sex, or national origin seek legal action. Some solutions people seek from the court may include<sup>6</sup>:
  - placement in the job and/or back pay and benefits the person would have received.
  - the employer being required to stop any discriminatory practices and take steps to prevent discrimination in the future.
  - ability to recover attorney's fees, expert witness fees, court costs, as well as damages.

What is the solution for a Title IX discrimination claim?

- Typically, people who think they have a sex-based discrimination claim in educational programs and activities at organizations that receive Federal financial assistance file a complaint with the institution's Title IX office. Steps in this process may vary slightly by institution but typically include: investigation, informal hearing, mediation, and resolution. Students **are not required** to use the informal methods of complaint resolution through the school.<sup>4</sup>
- Report the crime to campus or local law enforcement.<sup>4</sup>
- Anyone who believes they have experienced a Title IX violation or may be affected by a general "hostile sexual environment" may file a complaint with The U.S. Department of Education's Office for Civil Rights (OCR). Complaints should be submitted online or through mail to the OCR enforcement office that serves the state in which the alleged discrimination occurred.<sup>5</sup>

Which Civil Rights Act trumps the other and when?

This answer is complicated. This issue has not been taken up by the Supreme Court, so it depends on which Circuit Court hears the case. A Circuit Court is a regional federal court, whose authority falls just below that of the Supreme Court. The MAC Conference New York university is in the 2<sup>nd</sup> Circuit Court, Ohio and Michigan universities are in the 6<sup>th</sup> Circuit Court, and Indiana and Illinois universities are in the 7<sup>th</sup> Circuit Court. Therefore, the decisions for which Civil Rights Act is superior will differ between the MAC Conference universities. The 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> Circuits say that a Title VII claim does not prevent a Title IX claim. On the other hand, the 5<sup>th</sup> and 7<sup>th</sup> Circuits say that a Title IX employment discrimination claim is prevented by Title VII because Title IX was not intended to allow employees of educational institutions complaining of gender discrimination or sex-based retaliation to avoid the system established by Title VII.<sup>7</sup>

### Rowles v. Curators of the University of Missouri<sup>3</sup>

**Who:** Jeremy Rowles, an black Ph.D. candidate who also worked as a university teaching assistant.

**What:** Rowles was found responsible by the university for the sexual harassment and stalking of a white female undergraduate student after repeatedly expressing his romantic interest in her. Rowles felt he was treated unfairly compared to two white students who were also disciplined for similar sexual harassment. Rowles sued the university under Title VII and Title IX for how the university handled his case and disciplinary actions.

**When:** Harassment occurred in 2016; lawsuit occurred in 2020.

**Where:** University of Missouri

**Decision:** First, the 8<sup>th</sup> Circuit said there was no Title VII discrimination based on race in how the university disciplined these three people. The university treated the white students accused of sexual harassment differently from Rowles because Rowles was a teaching professor in a position of power with one prior sexual harassment allegation, not because Rowles was black.

Second, the 8<sup>th</sup> Circuit agreed that Rowles did not have a Title IX claim, because he and the other two students accused of sexual harassment, were treated fairly and equally according to the university's Title IX policy.

The school may be liable under Title IX if it knows about Title IX allegations and chooses to ignore them.

**Why This Matters:** The impact of one claim (Title VII or Title IX) must be understood as to its full role in the lawsuit strategy—this strategy varies based on the Circuit Court that hears the case. In the Rowles case, the 8<sup>th</sup> Circuit viewed the Title VII and Title IX claims together to understand their role in Rowles' situation.

1. Federal Trade Commission, Protections Against Discrimination and Other Prohibited Practices, <https://www.ftc.gov/site-information/no-fear-act/protections-against-discrimination>

2. U.S. Department of Education, Title IX and Sex Discrimination, [https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

3. *Rowles v. Curators of the University of Missouri*, No. 19-1946, 2020 WL 7409643 (8th Cir. Dec. 18, 2020)

4. Know Your IX, Title IX, <https://www.knowyourix.org/college-resources/title-ix/>

5. Know Your IX, Taking Legal Action Under Title IX, <https://www.knowyourix.org/legal-action/taking-legal-action-title-ix/>

6. U.S. Equal Employment Opportunity Commission, Remedies for Employment Discrimination, <https://www.eeoc.gov/remedies-employment-discrimination>

7. Does Title VII preempt a Title IX claim by an employee alleging employment discrimination?, <https://www.nixonpeabody.com/en/ideas/articles/2019/09/24/does-title-vii-preempt-a-title-ix-claim#:~:text=In%20Lakoski%2C%20the%20Fifth%20Circuit,a%20finding%20of%20employment%20discrimination.>